

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
APRIL 12, 2006**

**CALL TO
ORDER**

A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. Board members present were Charles Lapp, Don Hines, Jeff Larsen, Gene Dziza, Randy Toavs, Kim Fleming, and Frank DeKort. Kathy Robertson and Gordon Cross had excused absences. Nicole Lopez-Stickney, Traci Sears-Tull and Jeff Harris represented the Flathead County Planning & Zoning Office.

There were approximately 25 people in the audience.

**APPROVAL OF
MINUTES**

Fleming made a motion seconded by DeKort to approve the March 8, 2006 meeting minutes. The motion passed unanimously.

**PUBLIC
REVIEW**

Jeff Larsen reviewed the public hearing process.

**PRELIMINARY
PLAT/
PHEASANT RUN
SUBDIVISION**

A request by Marc Milisavljevich for Preliminary Plat approval of Pheasant Run Subdivision, an eight (8) lot single-family residential subdivision on 43.70 acres. All lots in the subdivision are proposed to have individual water and septic systems. The property is located at 2660 Columbia Falls Stage Road.

STAFF

Traci Sears-Tull reviewed Staff Report FPP 06-09 for the Board.

Larsen asked if the variance was needed as long as there is a secondary access road.

Tull stated she believed he was correct.

Fleming asked about the access to and from Lot 7. She is concerned about the parcel having a driveway right on to Columbia Falls Stage Road.

APPLICANT

Greg Stevens, representing the applicant, reminded the Board of the original application that went before the Board in January. He stated there was a very well organized neighborhood opposition. He referenced the Staff Report and indicated there was a "typo" regarding consistency with the other two phases of Stage Road River Estates (page 4 and page 7).

He pointed out, on a map, the driveway for Lot 7, and stated the Board can put a condition on it.

Fleming asked about a remainder.

Stevens feels it is not necessary to restrict any further subdivision of the 5-acre remainder. He said any one of the other lots would be free to divide their lots.

Marc stated he would not have a problem with the Board putting a condition on this application regarding no further subdividing of the remainder.

AGENCIES

None present.

**PUBLIC
COMMENT
STAFF
REBUTTAL**

None.

None.

**APPLICANT
REBUTTAL**

None.

MAIN MOTION

Fleming made a motion seconded by DeKort to adopt staff report FPP06-09 and recommended approval to the Board of County Commissioners.

**MOTION
(Condition #1)**

Fleming made a motion seconded by Lapp to amend condition #1 to state that the applicant shall obtain a variance to road length contained in section 3.9, Minor Street Standards, of the Flathead County Subdivision Regulations.

ROLL CALL

On a roll call vote the motion passed unanimously.

**MOTION
(Add Condition)**

Fleming made a motion seconded by Toavs to add condition #26 stating that Lot 8 and the remainder shall share a common driveway.

ROLL CALL

On a roll call vote the motion passed unanimously.

**MOTION
(Add Condition)**

Fleming made a motion seconded by DeKort to add condition #27 stating the applicant shall place a note on the final plat that no further subdivision of the remainder is permitted.

ROLL CALL

On a roll call vote the motion passed unanimously.

**BOARD
DISCUSSION**

The Board discussed access for Lot 7 and whether a secondary access or an emergency access would be necessary.

Stevens addressed the Board and questioned the conditions they were proposing.

Lapp asked Stevens if it would be possible to redesign the project to address their concerns.

Stevens stated it would be a lot of work for such a small concern.

Marc stated he had extensive conversations with the neighbors in regards to joining the existing road maintenance agreement. He feels that is a solution to this problem.

Lapp asked Joe Kauffman, of Big Sky Surveying, if it would be possible to flag Lot 7, to make it a flag lot back to the subdivision road.

Kauffman said it could be done as long as they maintain the length to width ratio.

The Board and Staff discussed the access off Lot 7, and whether having an emergency access road or upgrading the existing road would be more appropriate. They also discussed the fact there are many issues with this proposal, and the Board considered tabling this proposal so the applicant and Staff could work through these concerns before passing it on to the Board of County Commissioners.

**MAIN MOTION
ROLL CALL**

On a roll call vote the motion passed unanimously.

**ZONE CHANGE/
FILLER**

A Zone Change request in the Evergreen and Vicinity Zoning District by David and Karie Filler, from R-1 (Suburban Residential) to B-2 (General Business). The property is located at 2577 US Highway 93 North, and contains 7.5 acres.

STAFF REPORT

Nicole Lopez-Stickney reviewed Staff Report FZC-06-01 for the Board.

APPLICANT

Erica Wirtala, of Sands Surveying, represented the applicant. She contacted the County Attorney's office before proceeding with this zone change, and was informed the Two Rivers Master Plan Amendment had been filed but not served; they could proceed with this request.

She pointed out the subject parcel on a map and some of the surrounding parcels. She talked about the city annexations in the same area.

She referenced the Staff report and pointed out some changes. She thinks this project lies within the Highway 93 Zoning District, not the Evergreen Zoning District as noticed in the legal. (Staff checked on this and confirmed it's within the Evergreen and Vicinity Zoning District).

She stated the applicant is operating under a Conditional Use Permit and has no plans to expand their business. Also, they don't want to change the existing use nor do they have plans to have public water and sewer put in place for this proposal. The applicant wants to make this a consistent project. He has a Master Plan Amendment for commercial, an existing commercial use, but an R-1 zoning use.

David Filler said he operates Stillwater photography, has lived there since 1993, and has operated the business since 2002. It is a home-based business with many restrictions, which they comply with.

AGENCIES

None present.

**PUBLIC
COMMENT**

Sharon DeMeester, 415 Chestnut Drive, said she is sure the lawsuit had been filed. It is up to the County whether they want to proceed. She handed out a map showing what the city of Kalispell has planned should this parcel be annexed into the city. She spoke about the highway and her concerns with safety. She feels they need to look at infrastructure before making any changes in this area. She feels it is an inappropriate time to approve this. It is not in compliance with keeping commercial off of Highway 93.

Russ Crowder, representing America Dream Montana, stated the city of Kalispell does not have jurisdiction over this area, the County does, and it doesn't matter what their plan is for this area. He spoke about the highway and thinks this is a logical project for this area.

**STAFF
REBUTTAL**

None.

**APPLICANT
REBUTTAL**

Erica addressed the issues brought up by the public regarding floodplain concerns, and said that would be dealt with in a subdivision phase.

MOTION

Lapp made a motion seconded by Toavs to adopt Staff Report FZC 06-01 and recommend approval to the County Commissioners.

**BOARD
DISCUSSION**

Fleming brought up the uses that could take place in this particular zone, and stated she is concerned with this zone change. She is not in favor of this kind of zoning without some input from the city. She thinks it encourages "strip development" in this area with no infrastructure in place.

Hines mentioned a project that was approved at the City Planning Board the night before; a 146 room hotel site with a casino and a convention center for 500 people with 401 parking spots on 3-½ acres off a five (5) lane road. He thought the Board members would get a laugh out of it.

DeKort agreed with Fleming; he said it's premature.

Larsen mentioned the Master Plan Amendment this Board approved, not long ago, which was also approved by the governing body. He feels it's a tough call. Since they approved that plan, he wondered how they could now deny a zone change that complies with that amendment.

Toavs spoke about the fact there's no guarantee there will be a frontage road there. He said commercial developments in this area would have to come before the Board; this is not a development, it is a zone change.

Hines spoke about MDOT and stated it's a difficult position for the applicant to be in, regarding a frontage road.

ROLL CALL

On a roll call vote the motion passed 4-2 with DeKort and Fleming dissenting.

**TEXT
AMENDMENT/
WAYNE
TURNER**

A request to amend the text of the Flathead County Zoning Regulations submitted by Wayne E. Turner. Specifically, the amendment would be to Section 3.08.030, Conditional Uses (SAG-5). The applicant wishes to add mini-storage within the SAG-5 Zoning District as a Conditional Use.

STAFF REPORT

Nicole Lopez-Stickney reviewed Staff Report FZTA-06-01 for the Board.

APPLICANT

Erica Wirtala, of Sands Surveying, represented the applicant. She feels this is a zone change or a zone text amendment that's been "a long time coming". She feels the buffer zones, relatively close to the highway, need a more "localized" area for mini-storage units. She referenced a map that showed all of the SAG-5 zones. A total of 14,000 acres, zoned SAG-5, are in the County. She stated any applicants wanting to have a mini-storage facility in the SAG-5 zoning district would have to appear before the Board of Adjustment. At that time all of the issues would be addressed.

AGENCIES

None present.

**PUBLIC
COMMENT**

Sharon DeMeester, 415 Chestnut Drive, questioned how much SAG-5 would be used. Since there are no studies, how many storage facilities does the County have? She doesn't feel this is appropriate and has many questions since there weren't enough answers in the application.

Russ Crowder, represented American Dream Montana, had two issues. First, are storage units appropriate in a SAG-5? They believe they are. They would like the Board to approve this proposal based on that. Second, they are concerned with major changes in the Zoning Regulations based on individual projects. They are requesting that Staff remove the amendment to Section 4.13 since the public was not made aware of this change.

**STAFF
REBUTTAL**

None.

**APPLICANT
REBUTTAL**

Erica stated the applicant would like to address the section for performance standards for mini-storage units in a SAG-5 zone, and

leave Section 4.13 out of it. They were only trying to amend that particular section, not the entire Subdivision Regulations.

**MAIN
MOTION**

Hines made a motion seconded by Fleming to adopt Staff Report FZTA-06-01 as findings of fact and recommended denial to the County Commissioners.

**BOARD
DISCUSSION**

Lapp asked Staff to read the legal notice for clarification on the different sections of the zoning regulations. He didn't support this proposal as written in the Staff Report.

Harris read the notice and said Crowder had a valid point regarding the legal notice not referencing both sections of the Regulations. He stated Staff could not support this proposal for only amending one section and not the other. He also stated we could re-notice this proposal referencing both sections to allow the public the opportunity to comment.

Wirtala stated the applicants only wanted to change the performance standards for a Conditional Use Permit in a SAG-5 zone and stated the legal notice was correct for what the intent of their application was. They feel if the Planning Department re-notices this in the paper, to change the standards for all other zones including SAG-5, it changes the intent of their application; they don't want to go down that road. They feel their application was specific: to amend the text for the performance standards for a Conditional Use Permit in a SAG-5 zone.

Larsen stated the problem is the legal notice that went out to the public did not reference Section 4.13, yet the Staff Report included it in the report. He said if the applicants want to move forward, they can vote on what is before them that night.

Wirtala asked the Board to vote on the proposal and then told Staff that she and the applicant can work out any issues before the Commissioner's meeting. She feels it's just a matter of re-numbering parts of the Regulations.

Lapp had concerns about how the report was written. He could not support all the performance standards as written in the report.

Hines asked the applicant where they propose to build the storage facility.

Turner replied, just south of the LLC gravel pit.

Lapp had concerns about the performance standards, listed in the Staff report, and stated he could not support these restrictions in all other zones. He is concerned this will "push" storage units into all the unzoned areas of the County.

Lopez-Stickney offered some clarification for the Board regarding the performance standards. She said those came from existing text, and what that is saying is that in the districts that already allow mini-storage units as a Conditional Use, these are the standards they have to abide by.

Harris stated when the original request came in, it was for a specific site that made sense in an area right next to a gravel pit. The application would have had an impact to about 10,000 acres of SAG-5 land.

Wirtala said the performance standards they are proposing came from Kalispell City Planning, as well as Whitefish and Columbia Falls Planning offices; they were not just concocted by the applicant.

Lapp said if that's the case, then he doesn't like theirs either.

The Board and Staff discussed the impact this text amendment would have on the Subdivision Regulations and were concerned the public didn't have proper notification the way the legal notice was advertised.

**MAIN MOTION
ROLL CALL
PRELIMINARY
PLAT/
EAST VALLEY
ESTATES #2**

On a roll call vote the motion passed unanimously.

A request by Logan Ventures, Inc. for Preliminary Plat approval of East Valley Estates #2, a twenty-eight (28) lot residential subdivision on 28.46 acres. All lots in the subdivision are proposed to have public water and individual septic systems. The property is located off Montana Highway 35 and Montford Road.

STAFF REPORT

Nicole Lopez-Stickney reviewed Staff Report FPP 06-08 for the Board.

APPLICANT

Mike Fraser, of Thomas, Dean and Hoskins, represented the applicant. He pointed to a map and said this phase is a continuation of Phase 1. This parcel was supposed to be a remainder, but the applicant went before the Commissioners and had it amended so this parcel could be further subdivided. He stated this area was historically agricultural and is unzoned. He pointed out the areas of the parcel that were sold to an adjoining farmer to remain in Agriculture, and a portion of the land that was placed in a conservation easement. He stated the applicant has always been a good neighbor and wants to continue in that capacity. He does not agree with condition #19, as this is a phasing project and he does not feel they should be required to have all public infrastructure in place prior to the completion of the project. He would like to have that condition amended so they can complete the public utilities and roads as the phasing is completed. He addressed concerns of the neighbors in regards to traffic and road conditions.

Donna Buchell, 390 Columbia Falls Stage (property owner) wanted to give the Board some important facts. She gave an emotional history of the property and how they came to be here tonight.

AGENCIES

None present.

**PUBLIC
COMMENT**

Dave Heine, 344 Main Street, was the realtor for the family and wanted to give some history of this property. He stated the covenants are very specific and they will try to mitigate any dust concerns as well. They do not want to create any tension with the farmers in the area; this project will have minimal impact on the surrounding farmers.

Sue Richardson, 156 Juniper Bend, feels there are several farmers in the area that have difficulty moving around equipment from time to time, and wanted to reiterate the right to farm in the area. She owns 80 acres directly south of Phase 1, and her brother owns 80 acres in this area as well. Water and irrigation doesn't seem to be a concern from Phase 1, and traffic doesn't seem to be much of an issue either, except during school mornings and afternoons. She commended the Buchells for donating land to the Flathead Land Trust, but she doesn't want the Board to approve this Phase of the project based on the applicant's donation of land. She feels Phase 1 was approved because of that and because of a comment from one of the Board members at that time. She wanted the Board to maintain the integrity of the project and approve it on the merit of the development. It should not be approved because the applicant donated land and feels the comment from a Board member during Phase 1 of this project was inappropriate. She questions the trips per day, calculated by the Planning Staff for Phase 2, and wondered what the combination would be with both Phases of this project. She also feels the density is a high being in close proximity to the highway.

Jeff Moser, 2 Wind River Drive, represented Fischer Paolini Contractors. He stated they are currently working on four custom homes in Phase 1. They have had a lot of interaction with homeowners and developers and feels these applicants are a breath of fresh air; they are involved and willing to help out. They are genuine people who want a quality development. He would like a favorable recommendation.

**STAFF
REBUTTAL**

Staff wanted to point out the requirement for cash-in-lieu for the common area, being less than 2 acres in size. It is a buffer along Highway 35 and may not be safe for children. She also stated improvements should include the road from Phase 1 as well.

**APPLICANT
REBUTTAL**

Fraser stated that Fair-Mont Egan School is dropping in enrollment. He said the applicants want a quality development. Cash in lieu is fine with them and they also feel improvements can be done as the phases are completed.

- MAIN MOTION** Fleming made a motion seconded by DeKort to adopt Staff Report FPP 06-08 as findings of fact and recommended approval to the County Commissioners.
- MOTION (Condition #17)** Fleming made a motion seconded by Hines to amend condition #17 to read: The applicant shall dedicate open space, as shown on the Preliminary Plat, along Highway 35, and pay cash-in-lieu to satisfy the parkland requirement. *(There is an understanding that the standard wording will be added regarding the real estate appraisal being done 6 months prior to submitting Final Plat.)*
- ROLL CALL** On a roll call vote the motion passed 4-2 with Toavs and Hines dissenting.
- BOARD DISCUSSION** The Board discussed the common area/parkland vs. parks-in-lieu. They also discussed the roads and paving. Some of the members remember a lot of concern regarding the roads from Phase 1. They discussed putting a bike path along Montford Road to Holt Stage Road.
- MOTION (Condition #11)** Hines made a motion seconded by Fleming to amend condition #11 to read: The developer shall pave all of Montford Road from Highway 35 to Holt Stage Road.
- BOARD DISCUSSION** Fleming thought it would be better to require the applicant to form an RSID. She thought the applicant had offered to do that.
- Hines stated he remembered quite a bit of discussion regarding paving of the road in Phase 1 and feels the issues from the original subdivision were never addressed. He remembers a lot of public comment and Board discussion about the issues at hand, and feels the applicant is trying to skate by with minimal amount of effort on paving Montford Road. He feels they have skirted the issue with dust abatement and it has been a major issue all along.
- Lapp discussed having an RSID and how it would impact the neighborhood, to include Phase 1 lot owners.
- Larsen remembers the project started out with higher density and smaller lots. The Planning Board recommended approval and wanted to require paving on Montford Road. The Commissioners didn't want that density out there, and when the density went down, the paving requirement disappeared; it was a trade-off. At that time, he thought they were not going to require them to pave it all the way, but would definitely require them to pave it to their access on Montford Road; Holt Stage is already paved. If we required them to pave that portion of Montford Road, you could go through that subdivision without having to be on any gravel road. In his opinion, he is not sure they haven't addressed the dust abatement in that area.

Hines reiterated the increased traffic and the dust concerns.

Holland (*Staff*) gave a brief history of the Planning Board discussions from the original application of Phase 1.

ROLL CALL On a roll call vote the motion failed 4-2 with DeKort and Hines in favor.

**MOTION
(Condition #8)** Fleming made a motion seconded by DeKort to amend condition #8 to read: the developer shall dedicate a 15 foot bike/pedestrian easement along Montford Road, and a 15 foot bike/pedestrian easement within the open area along Highway 35.

ROLL CALL On a roll call vote the motion passed unanimously.

**MOTION
(Condition #24)** Hines made a motion seconded by Fleming to amend condition #24 to read: The developer will install an 8-ft wide bike/pedestrian path from the north end of McWenegar Drive to Holt Stage Road.

Fleming asked if his idea was to get the children down there to the school.

Hines answered yes, to provide a safe means for the children to get to school.

Toavs asked if there was already an easement on Holt Stage Road.

Hines stated it is paved.

Larsen said they really have to look at the direct impact this would have on the subdivision with this condition on it.

Fleming stated they already have a paved road all the way through this subdivision.

ROLL CALL On a roll call vote the motion failed unanimously.

**MOTION
(Condition # 19)** Lapp made a motion seconded by Fleming to amend condition # 19 to state that each phase be completed as a stand alone phase prior to Final Plat.

Toavs asked if that would include the 1400 feet of paving the internal subdivision road.

The Board discussed paving the roads and when they should be completed.

ROLL CALL On a roll call vote the motion failed 5-1 with Lapp voting in favor.

**MAIN MOTION
ROLL CALL**

On a roll call vote the motion passed 5-1 with Hines dissenting.

**PRELIMINARY
PLAT/
COVE CREEK
RIDGE**

A request by TLW Properties, LLC for Preliminary Plat approval of Cove Creek Ridge, a thirty-three (33) lot single-family residential subdivision on 39.09 acres. All lots in the subdivision are proposed to have public water and individual septic systems. The property is located at 545 Yoeman Hall Road.

STAFF REPORT

Traci Tull reviewed Staff Report FPP 06-04 for the Board.

APPLICANT

Kate Cassidy, of Stokes and Associates, represented the applicant. She spoke about the soils and the location of the property. She also spoke about paving the internal subdivision road and having a bike path along the southern portion of the subdivision and the west side. She stated that approximately 25 percent will be open space and have a fenced-in play area. She spoke about the density of this proposal and the size of the lots in comparison to other subdivisions in the general area. She talked about the schools and that enrollment is down.

Jean Johnson, of Stokes and Associates, said they agree with the Staff Report but have one concern. They have a non-transient community water system, which meets the same criteria as the city of Kalispell. It is required to have a full-time licensed operator and will be maintained by a full-time monitor. He talked about the aquifer and the fact there is no lack of water. They will have a level II treatment sewer system; a community system. He spoke about drainage and stated there is plenty of space for retention. He said they will be monitored by DEQ.

AGENCIES

None present.

**PUBLIC
COMMENT**

Pat Arnone, 595 Lauman Road, wanted to offer a bigger picture of this proposal. She gave a brief history of land division in the area and spoke about the impact on Lauman Road. She is concerned with traffic and safety in the area.

John Donoghue, 590 Yoeman Hall Road, is an adjoining property owner. He has seen extreme development in residential areas and is concerned about the proposed lot size and the concept of phasing. He also expressed his concern about the proposed water and sewage treatment systems, traffic, fire and safety, surface water, wildlife impact, recreation areas, the treatment of the perimeter of the development, and most importantly, the impact on existing property character. He feels the proposed lot sizes fail to meet the character of the area. The proposed sewage treatment scheme is not well defined. Traffic patterns would allow ingress and egress to this development at a critical point, on a vertical curve, of Yoeman Hall that it becomes a major defect in the overall plan. He feels a traffic study should be

done. Fire and safety issues will have a serious impact on this and future developments. Emergency services must not be hindered by a cul-de-sac. Future homeowners are counting on this Board's scrutiny. Drainage is also an issue. Wildlife will also be affected if a proper mitigation plan is not put in place. He said the neighbors welcome growth however they are counting on this Board to set standards so new developments will enhance the resources that already exist. He requested the Board deny this application and return it to the property owner to reconsider their position.

Brent & Colleen Belston, 11 Wilson Drive, were concerned with wetlands in the area and the density of this development. They also agreed with what Mr. Donoghue stated. They had no objection to growth, but they didn't like the density and the "what-ifs".

**STAFF
REBUTTAL**

Tull spoke about the concerns with the sewage system. She stated that the staff report was reflective of the letter received from the Environmental Health Department, which the Board received a copy of. The letter commented that there was a lack of information for the proposed sewer system and also the storm water drainage.

**APPLICANT
REBUTTAL**

Johnson commented on concerns of the public and said they worked very hard to meet the requirements of the Regulations. He also stated the State is much harder to get approval from than the County. He said a subdivision can't have 5-acre parcels and a public water system; it's unaffordable. With 30-40 ft setbacks, the public would not even see this development when driving by. Homeowners would be required, by the State, to maintain the water system.

Toavs asked for clarification on the water and sewer treatment.

Johnson explained the process and the requirements.

MAIN MOTION

Toavs made a motion seconded by Lapp to adopt staff report FPP 06-04 and recommended approval to the Board of County Commissioners.

**BOARD
DISCUSSION**

Toavs said he likes this proposal, including the bike path and nice parkland dedication. He feels the applicant has put together a nice development.

Hines asked Johnson why they didn't connect Banner Drive to Lauman Road.

Johnson stated they considered it but felt they had good circulation with the loop road. They have two ingresses and egresses through this subdivision and someday that road could be developed.

**MOTION
(Condition #1)**

Lapp made a motion seconded by DeKort to amend condition#1 to state that all internal subdivision roads will consist of a 60-ft easement

and a minimum 24-ft paved travel surface.

ROLL CALL On a roll call vote the motion passed unanimously.

**MOTION
(Condition #5)** Toavs made a motion seconded by Fleming to add Lauman Road to Condition #5. He would like it to state the developer will dedicate a 15-ft bike/pedestrian easement as shown on the face of the plat on Lauman Road, as well as Yoeman Hall Road.

ROLL CALL On a roll call vote the motion passed unanimously.

Johnson said they knew Lauman Road was a private road but they placed the easement on the plat for a future bike/pedestrian path.

**MOTION
(Condition #17)** Fleming made a motion seconded by Toavs to add condition #17 to state the developer shall contact the child transportation committee and, if required, provide and improve a location for the safe loading & unloading of students.

ROLL CALL On a roll call vote the motion passed unanimously.

**MAIN MOTION
ROLL CALL** On a roll call vote the motion failed on a tie vote 3-3 with Fleming, Hines, and DeKort dissenting.

**PRELIMINARY
PLAT/
COLUMBIA
MOUNTAIN
VIEW LOTS,
UNIT 3** A request by Carter and Cheryl Fritz for Preliminary Plat approval of Columbia Mountain View Lots, Unit 3, a three (3) lot single-family residential subdivision on 3.15 acres with a remainder of 37.17 acres. All lots in the subdivision are proposed to have multiple-user water and individual sewer systems. The property is located off Helena Flats Road.

STAFF REPORT Traci Sears-Tull reviewed Staff Report FPP-05-86 for the Board.

APPLICANT Dawn Marquardt, of Marquardt & Marquardt Surveying, represented the applicant. She handed out a vicinity map for this subdivision, and wanted to correct something in the Staff Report. She stated this is a minor subdivision and therefore no parkland requirements are needed. She said the map shows 420 acres the applicants own and want to keep. Unfortunately, they are in a position where they have to do something. She read from the Helena Flats Neighborhood Plan in regards to preserving agricultural land, and stated the applicant has the same goal. She said the Helena Flats Land Use Advisory Committee did not receive the information from the studies regarding the Health Department issues in their packets. She said the planning office didn't give them much to look at and they make a decision without having all of the information. She stated the planning office had requested a letter from the Road Department, and received a letter the day the proposal went before the Board. The Staff Report was changed late in the day to reflect the concerns of the Road Department,

and she said that's why this proposal was pulled at the last minute and is coming before the Board at this time. She was concerned about what was going on. She said the applicant had no problem with the conditions as written, except for the open space requirement. Considering he has 420 acres and has no plan, designating a specific spot on the property, to stay open, is not very good planning. He met the density, so to put a specific deed restriction on the property makes no sense.

AGENCIES

None present.

**PUBLIC
COMMENT**

Brian L., of Enviro-Tech Consulting, was here to defend the Evergreen aquifer. He referenced a book written specifically about aquifers in the state of Montana. He does not agree with the Staff Report.

Shirley Anderson, 1475 Helena Flats Road, was concerned with the density of the project. She pointed out on the map properties included in the Helena Flats Neighborhood Plan. She also pointed out which property owners are in support of this proposal, which ones are in opposition, and which ones have no opinion. She gave some history of the projects Mr. Fritz has done. Her big concern is that this will keep happening with driveways accessing Helena Flats Road. She stated they have eight large property owners, five in support, and two with no comment. She does not know Mr. Fritz's opinion. She is concerned about the development along Helena Flats Road.

Russ Crowder, 2868 Lower Lost Prairie Road, commented he has known Mr. Fritz for many years and feels the family has more than paid their dues. He also feels people are looking for excuses to deny these property owners their rights after they have paid their dues; it's time we recognize them and pay them back.

**STAFF
REBUTTAL**

None.

**APPLICANT
REBUTTAL**

Marquardt stated they are not exceeding the overall density. She feels it is a really important distinction; it does make a difference in how you look at this.

Toavs asked for clarification on the number of lots and when they were approved.

Dawn explained how they came to be.

MAIN MOTION

Hines made a motion seconded by Lapp to adopt Staff Report FPP 05-86 as findings of fact and recommended approval to the Board of County Commissioners.

**BOARD
DISCUSSION**

Lapp questioned the County Road Department's issue with the subdivision across the street, but not this proposal.

Fleming spoke about the density, one (1) unit per five (5) acres, and being able to develop the remainder. She is concerned about the division of remainders. She feels the Board needs to restrict what is left and wants to comply with the Helena Flats Neighborhood Plan.

**MOTION
(Condition #9)**

Fleming made a motion seconded by DeKort to amend condition # 9 (revised) to state that the applicant can only further subdivide the remainder, Tract 2AB, into five more lots.

The Board, Staff, and Marquardt discussed, at length, how the wording should be for this condition in order to satisfy the Helena Flats Neighborhood Plan and concerns of the Board, yet still allow them to subdivide their property.

ROLL CALL

On a roll call vote the motion passed unanimously.

**MOTION
(Condition #15)**

Toavs made a motion seconded by Lapp to add Condition #15 to state the additional five (5) lots will have only one approach from the internal subdivision road.

ROLL CALL

On a roll call the motion passed unanimously.

**MAIN MOTION
ROLL CALL**

On a roll call vote the motion passed unanimously.

OLD BUSINESS

None.

**NEW
BUSINESS/
PUBLIC
COMMENT**

Fleming said she would forward information regarding a change to when public comment is heard before the Board, to members that were not able to attend tonight.

Harris gave the Board a "heads up" about what is coming up in the next few months.

Hines informed the Board of some changes the City Council made at their regular meeting. He wanted a card sent to Mr. Taylor who has stepped down.

ADJOURNMENT

The meeting was adjourned at approximately midnight on a motion by Fleming seconded by Toavs. The next meeting will be held at 6:00 p.m. on April 19, 2006.

Jeff Larsen, President

Mary Sevier, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 5/17/06